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| EXAMINER |
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YOUNG, JANELLE N

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| ART UNIT | PAPER NUMBER |
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2618

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 03/22/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/785,423

Applicant(s)

FLECK ET AL.

Examiner

Janelle N. Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because there are no labels or names for the numbered blocks in the drawing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. **The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.** The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Regarding claim 7, the phrase "or a capability object" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by " or a capability object "), thereby rendering the scope of the claim(s) unascertainable. Clarification of the correlation and identification of what structure, material, or acts set forth in the specification would be capable of carrying out a function recited in a means or steps plus function claim limitation. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Frouin (US Patent 6891797).

As for claim 1, teaches a method for transferring data from a source communication device to a destination communication device (Abstract; Col. 1, lines 8-14; and Col. 21, lines 9-31), comprising:

establishing a data connection between the source communication device and the destination communication device (Col. 5, lines 10-25; Col. 14, lines 52-67; Col 19, lines 46-62; and Col. 20, lines 44-57);

transferring a data collector means from the destination communication device to the source communication device (Col. 3, lines 20-31; Col. 7, line 59-Col. 8, line 21; Col. 13, line 58-Col. 14, line 19; Col. 14, lines 52-67; Col. 19, lines 46-62; and Col. 23, line 59-Col. 34, line 5);

collecting data to be transferred from the source communication device to the destination communication device using the data collector means Col. 13, line 24-Col. 14, line 67); and

transferring the collected data from the source communication device to the destination communication device using the data collector means (Col. 7, line 59-Col. 8, line 21; Col. 8, line 42-Col. 8, line 6; Col. 11, line 35-Col. 12, line 40; and Col. 13, line 24-Col. 14, line 31).

As for claim 2, teaches a method for transferring data from a source communication device to a destination communication device, wherein a migration means within the destination communication device migrates the transferred data into the destination communication device by translating the transferred data into a data format of the destination communication device (Col. 10, lines 37-55).

As for claim 3, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data connection is a connected mode and non-connected mode; which reads on claimed wired or wireless connection (Abstract; Col. 4, lines 43-62; and Col. 9, lines 41-63).

As for claim 4, teaches a method for transferring data from a source communication device to a destination communication device, wherein the collected data is transferred from the source communication device to the destination communication device using a standard data format (Col. 3, lines 19-30 and Col. 33, lines 19-23).

As for claim 5, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data collector means translates the collected data into the standard data format, wherein the data collector means transfers the translated data to the destination communication device using the data connection, and wherein the transferred data is translated from the standard format into a destination communication device specific format using a migration means (Col. 10, lines 37-55).

As for claim 6, teaches a method for transferring data from a source communication device to a destination communication device, wherein after establishing the data connection between the source communication device and the destination communication device, the source communication device is identified (Col. 20, lines 44-57 and Col. 27, line 58-Col. 28, line 55).

As for claim 7, teaches a method for transferring data from a source communication device to a destination communication device, wherein the source communication device is identified by requesting a type identification and/or a capability object of the source communication device (Col. 13, line 58-Col. 14, line 19).

As for claim 8, teaches a method for transferring data from a source communication device to a destination communication device, wherein the migration means provides at least one data collector means for a particular source communication device, and wherein after identifying the source communication device a compatibility between the source communication device and the at least one provided data collector

means is checked (Col. 5, lines 26-31; Col. 9, lines 10-13; Col. 13, line 58-Col. 14, line 67; Col. 25, lines 6-14; and Col. 34, lines 55-67).

As for claim 9, teaches a method for transferring data from a source communication device to a destination communication device, wherein in case none of the at least one provided data collector means is compatible with the identified source communication device, a compatible data collector means is loaded onto the destination communication device (Col. 13, lines 20-38 and Col. 15, lines 22-27).

As for claim 10, teaches a method for transferring data from a source communication device to a destination communication device, wherein a communication connection is established between the destination communication device and a server to download a compatible data collector means for the identified source communication device from the server onto the destination communication device (Col. 10, line 59-Col. 11, line 29; Col. 13, line 24-Col. 14, line 31; Col. 20, lines 1-16; and Col. 20, line 33-Col. 21, line 46).

As for claim 11, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data collector means is an executable file (Col. 1, lines 16-40; Col. 18, lines 51-55; Col. 19, lines 19-21; and Col. 34, lines 10-21).

As for claim 12, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data collector means enables access to data within the source communication device (Col. 5, lines 10-26 and Col. 10, lines 30-37).

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As for claim 13, teaches a method for transferring data from a source communication device to a destination communication device, wherein the destination communication device controls the data collector means (Col. 15, lines 22-27; Col. 20, lines 17-32; Col. 21, lines 9-31; and Col. 22, lines 38-53).

As for claim 14, teaches a method for transferring data from a source communication device to a destination communication device, wherein the migration means within the destination communication device controls the data collector means (Col. 10, lines 37-55 and Col. 13, line 58-Col. 14, line 67).

As for claim 15, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data collector means is executed on the source communication device according to security rules within the source communication device (Col. 2, lines 21-26; Col. 3, lines 32-44; and Col. 20, line 33-Col. 21, line 46).

As for claim 16, teaches a method for transferring data from a source communication device to a destination communication device, wherein the data collector means collects available data types within the source destination communication device, wherein information on the available data types is transferred from the source communication device to the destination communication device, wherein from the available data types, data types can be selected by a user, and wherein only data of the selected data types is collected by the data collector means (Col. 15, line 54-Col. 16, line 28).

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As for claim 17, teaches a method for transferring data from a source communication device to a destination communication device, wherein the available data types are presented to a user for user selection via a user interface of the destination communication device (Col. 15, line 54-Col. 16, line 28).

Regarding claim 18, see explanation as set forth regarding claim 1 (method claim) because the claimed system for transferring data from a source communication device to a destination communication device would perform the method steps.

Regarding claim 19, see explanation as set forth regarding claim 1 (method claim) because the claimed communication device for receiving/collecting data from a source communication device to a destination communication device would perform the method steps.

Regarding claim 20, see explanation as set forth regarding claim 1 (method claim) because the claimed communication device for transferring data from a source communication device to a destination communication device would perform the method steps.

Regarding claim 21, see explanation as set forth regarding claim 1 (method claim) because the claimed computer program for transferring data from a source communication device to a destination communication device would perform the method steps.

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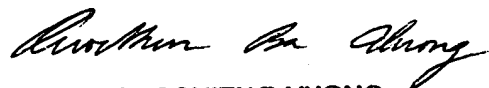
Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY
March 18, 2007

 3/19/07

QUOCHIEN B. VUONG
PRIMARY EXAMINER